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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE
SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

VENEZUELA*

[19 April 1991]

INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE
CRIME OF APARTHEID: SECOND PERIODIC REPORT OF VENEZUELA

Information on the legislative, judicial, administrative or other measures
that have been adopted and that give effect to the following provisions of
the Convention

Article I

1. As stated in the initial report submitted by Venezuela (E/CN.4/1987/26/Add.8), the International Convention on the Suppression and Punishment of the Crime of Apartheid was incorporated into Venezuela's internal law by an Act of 30 September 1982. From that time, therefore, the

* The initial report submitted by the Government of Venezuela (E/CN.4/1987/26/Add.8) was considered by the Group of Three at its 1987 session.

State of Venezuela agreed in declaring that apartheid is a crime against humanity and that inhuman acts resulting from similar policies and practices of segregation and discrimination, as defined in the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. Moreover, racial discrimination has not existed in Venezuela for over a century now. Article 61 of the Constitution should be quoted, as the legal basis for the prohibition of any form of racial discrimination:

"Discrimination based on race, sex, creed or social status shall not be permitted.

Documents of identification for acts of civil life shall contain no mention of any kind respecting filiation.

No official form of address shall be used other than 'citizen' (ciudadano) and 'you' (usted), except in diplomatic formulas.

Titles of nobility or hereditary distinctions shall not be recognized."

3. By virtue of the fact that the principle of equality is enshrined in the Constitution, no law or act of the public authorities may derogate from or disregard it. Any act of discrimination based on race, sex, creed or social status may be qualified as an unconstitutional act, which is invalid and can be the subject of proceedings in the respective judicial forum.

4. It should be mentioned that, on 18 December 1987, the Organic Law on the Protection of Constitutional Rights and Guarantees was promulgated, regulating the remedy of amparo provided for in article 49 of the Constitution.

Article 1 of this Act states the following:

"Any natural person inhabiting the Republic or legal person domiciled therein may apply to the competent courts for the remedy of amparo provided for in article 49 of the Constitution for the purpose of ensuring the enjoyment and exercise of constitutional rights and guarantees, including those fundamental rights of the human being which are not expressly referred to in the Constitution, so that the legal situation infringed or the situation most closely resembling it may be immediately redressed. The guarantee of personal freedom governed by the constitutional provisions regarding habeas corpus shall be regulated by this Act."

5. It should also be mentioned that article 6 of the Education Act of 26 July 1980 provides that "all inhabitants of the Republic have the right to receive an education in keeping with their aptitudes, suited to their vocation and consistent with the requirements of national or local interests, with no discrimination whatsoever based on race, sex, creed, economic and social position or any other ground".

Article IV (a) and Measures to acquaint the public as widely as possible
with the evils of apartheid and the text of the Convention

6. According to Venezuelan constitutional and legal norms, acts which contradict or contravene such norms are null and void, and any act based on racial discrimination has no validity or effect whatsoever because it is in violation of the principle laid down in article 61 of the Constitution, as already quoted. Moreover, since the International Convention on the Suppression and Punishment of the Crime of Apartheid forms part of Venezuela's internal legal order, any offence provided for therein constitutes an offence open to prosecution ex officio by the judicial authorities and to trial and sentence by the competent courts.

7. Like all illegal acts, the act of racial discrimination would generate an obligation to provide compensation for harm caused, both material and moral, in conformity with article 1196 of the Civil Code, which stipulates:

"The obligation to provide compensation extends to all material or moral damage caused by the illegal act.

In particular, the judge may award compensation to the victim in cases of bodily harm, attacks on his honour or reputation or those of his family, or attacks on his personal freedom and in cases of violation of the home or of a secret relating to the injured party. The judge may also grant compensation to relatives or spouses as reparation for suffering caused by the death of the victim."

8. A public official who has committed an act of discrimination will incur civil or administrative liability, as the case may be, and orders of superiors may not serve as an excuse. This is provided for in article 46 of the Constitution.

9. It should be pointed out that the Education Act contains norms to be interpreted as prohibiting the dissemination of ideas constituting incitement to racial discrimination or based on racial superiority or hatred. Article 11 of this Act provides as follows:

"The mass media are instruments that are essential to the development of the educational process; therefore, those under the direction of the State will be run by the Ministry of Education and used for the functions appropriate to them. Private individuals who direct or administer radio or television stations are bound to cooperate in the educational task and adapt their programming to the achievement of the goals and objectives enshrined in this Act.

The publication and circulation of printed matter or other forms of social communication which might frighten children, constitute incitement to hatred, aggressiveness or lack of discipline, distort language and undermine the sound values and morals of the Venezuelan people, shall be prohibited. Similarly, the law and the regulations in force shall govern publicity for the purpose of defending the mental and physical health of the population."

Articles IV (b), III and XI

10. Under article 52 of the Venezuela Constitution, "Both Venezuelans and foreigners must comply with and obey the Constitution and the laws, and the decrees, resolutions and orders issued by legitimate agencies of the public authorities in exercise of their functions". Therefore, all the inhabitants of the Republic of Venezuela are equal before the law and subject equally to substantive and procedural penal provisions.

11. As a State party to the Convention, Venezuela has fully assumed the commitment provided for in article XI of that instrument, whereby acts enumerated in article II of the Convention shall not be considered political crimes for the purpose of extradition, which shall be granted in accordance with States parties' legislation and with the treaties in force.

Legislative, judicial, administrative or other measures that have been adopted and that give effect to article VI

12. Venezuela is a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention against Discrimination in Education and, since July 1989, the International Convention against Apartheid in Sports. All these instruments have been incorporated in Venezuela's internal legal order and are binding on all inhabitants of the Republic and all judicial, administrative or other authorities. Moreover, Venezuela has traditionally supported all resolutions, decisions and measures on apartheid that have been adopted by the various organs of the United Nations.

13. In keeping with this unwavering position, the President of the Republic, in his address to the General Assembly at its forty-fifth session, called upon "all nations not to suspend or ease sanctions against South Africa until the conclusion of agreements that put into effect President De Klerk's efforts and meet leader Nelson Mandela's proposals".
